
STATUTORY INSTRUMENTS

2017 No. 218

The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017

PART 3

Restrictions on Financial Services and Markets

Credit and financial institutions: accounts and correspondent banking relationships

10.—(1) A credit or financial institution falling within the scope of Article 16 of the Council Regulation must not—

- (a) open a new bank account with,
- (b) establish a new correspondent banking relationship with,
- (c) establish a new joint venture with, or
- (d) take an ownership interest in,

a person falling within paragraph (2), if the credit or financial institution knows or has reasonable cause to suspect that the account, relationship or venture is with, or the ownership interest is in, a person falling within paragraph (2).

(2) The following persons fall within this paragraph—

- (a) a credit or financial institution domiciled in the Democratic People's Republic of Korea;
- (b) a branch or subsidiary, wherever located, of a credit or financial institution domiciled in the Democratic People's Republic of Korea as listed in Annex VI of the Council Regulation;
- (c) a credit or financial institution that is neither domiciled in the Democratic People's Republic of Korea nor falls within the scope of Article 16 of the Council Regulation, but is controlled by a person, entity or body domiciled in the Democratic People's Republic of Korea, as listed in Annex VI of the Council Regulation.

(3) A credit or financial institution falling within the scope of Article 16 of the Council Regulation must not—

- (a) open a new representative office in the Democratic People's Republic of Korea, or
- (b) establish a new branch or subsidiary in the Democratic People's Republic of Korea.

(4) Paragraph 1(b) to (d) are subject to regulation 23.

Credit and financial institutions: representative offices etc

11. A person (“P”) must not—

- (a) authorise the opening of a representative office or the establishment of a branch or subsidiary in the European Union of a person falling within regulation 10(2);
- (b) conclude an agreement for, or on behalf of, a person falling within regulation 10(2) which relates to the opening of a representative office or the establishment of a branch or

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subsidiary in the European Union, if P knows or has reasonable cause to suspect that the agreement is for, or on behalf of, such a person; or

- (c) authorise the taking up and pursuing of business by a representative office, branch or subsidiary of a person falling within regulation 10(2), if the representative office, branch or subsidiary was not operational before 19th February 2013.

Acquisition or extension of ownership interest

12. A person falling within regulation 10(2) must not acquire or extend a participation, or acquire any other ownership interest, in a credit or financial institution falling within the scope of Article 16 of the Council Regulation.

Sale or purchase of bonds

13.—(1) A person (“P”) must not sell or purchase public or public-guaranteed bonds issued after 19th February 2013, directly or indirectly, to or from a person, entity or body falling within paragraph (4) if P knows or has reasonable cause to suspect that the sale or purchase would be to or from such a person, entity or body.

(2) A person (“P”) must not provide brokering services with respect to public or public-guaranteed bonds issued after 19th February 2013 to a person, entity or body falling within paragraph (4) if P knows or has reasonable cause to suspect that the services would be provided to such a person, entity or body.

(3) A person (“P”) must not assist a person, entity or body falling within paragraph (4) to issue public or public-guaranteed bonds, by providing—

- (a) brokering services,
- (b) advertising, or
- (c) any other service with respect to such bonds,

if P knows or has reasonable cause to suspect that P would be assisting such a person, entity or body.

(4) The following persons, entities and bodies fall within this paragraph—

- (a) the Democratic People's Republic of Korea and its Government, public bodies, corporations and agencies;
- (b) the Central Bank of the Democratic People's Republic of Korea;
- (c) any person falling within regulation 10(2);
- (d) a person, entity or body acting on behalf of or at the direction of a legal person, entity or body falling within sub-paragraphs (a) or (b);
- (e) a legal person, entity or body owned or controlled by a person, entity or body falling within sub-paragraphs (a) to (c).

DPRK credit and financial institutions: branches, subsidiaries, and representative offices

14. A person must not operate or facilitate the operation of—

- (a) a branch;
- (b) a subsidiary; or
- (c) a representative office,

of a person falling within regulation 10(2).

Severance of existing financial relationships

15.—(1) A credit or financial institution falling within the scope of Article 16 of the Council Regulation must have, by 31st May 2016—

- (a) closed any bank account with;
- (b) terminated any correspondent banking relationship with;
- (c) terminated any joint venture with;
- (d) relinquished any ownership interest in,

a person falling within regulation 10(2).

(2) A credit or financial institution falling within the scope of Article 16 of the Council Regulation must have, by 31st May 2016—

- (a) closed any branch in the Democratic People's Republic of Korea; and
- (b) closed any subsidiary, or representative office in the Democratic People's Republic of Korea.

(3) Paragraphs (1)(a) and (2)(b) are subject to regulation 23.

Business directly or indirectly with designated persons

16. A person must not participate, directly or indirectly, in any business arrangements, including joint ventures, with—

- (a) any person, entity or body listed in Annex IV of the Council Regulation; or
- (b) any other person, entity or body acting on behalf or at the direction of such a person, entity or body.

Financial support for trade

17.—(1) A person may not provide any financial support for trade with the Democratic People's Republic of Korea.

(2) In paragraph (1), financial support for trade includes, but is not limited to—

- (a) finance;
- (b) financial assistance;
- (c) export credits;
- (d) guarantees; and
- (e) insurance.

(3) Paragraph (1) is subject to regulation 23.

Investment and commercial activities

18.—(1) A person must not accept or approve investment in a commercial activity where such investment is made by a person, entity or body listed in paragraph (6).

(2) A person must not grant financing or financial assistance to any legal person, entity or body listed in paragraph (6)(d) to (f).

(3) A person must not establish a joint venture with a legal person, entity or body listed in paragraph (6) if that person is engaged in any activities listed in paragraph (7).

(4) A person must not acquire or extend any ownership interest in a legal person, entity or body listed in paragraph (6) if that person is engaged in any activities listed in paragraph (7).

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(5) A person must not provide investment services directly related to any activity that is prohibited by paragraphs (2) to (4).

(6) The persons, entities and bodies listed in this paragraph are—

- (a) a person, entity or body of the Government of the Democratic People's Republic of Korea;
- (b) the Worker's Party of Korea;
- (c) a national of the Democratic People's Republic of Korea;
- (d) a legal person, entity or body incorporated or constituted under the law of the Democratic People's Republic of Korea;
- (e) a person, entity or body acting on behalf of or at the direction of a person, entity or body falling within sub-paragraphs (a) to (d); or
- (f) a legal person, entity or body owned or controlled by a person, entity or body falling within sub-paragraphs (a) to (d).

(7) The activities listed in this paragraph are—

- (a) the nuclear-related, other weapons of mass destruction-related, or ballistic missile-related programmes of the Democratic People's Republic of Korea;
- (b) mining industry;
- (c) refining industry; and
- (d) chemical industry.

Transfers of funds

19.—(1) Subject to paragraph (3) a person (“P”) must not make a transfer of funds to, or receive a transfer of funds from, the Democratic People's Republic of Korea.

(2) Subject to paragraph (3) a credit or financial institution falling within the scope of Article 16 of the Council Regulation must not enter into, or continue to participate in, any transaction with—

- (a) credit or financial institutions domiciled in the Democratic People's Republic of Korea;
- (b) branches or subsidiaries, wherever located, of credit or financial institutions domiciled in the Democratic People's Republic of Korea, as listed in Annex VI to the Council Regulation;
- (c) credit or financial institutions that are neither domiciled in the Democratic People's Republic of Korea nor fall within the scope of Article 16 of the Council Regulation, but are controlled by persons, entities or bodies domiciled in the Democratic People's Republic of Korea, as listed in Annex VI of the Council Regulation.

(3) A transfer of funds may be made—

- (a) where the value of the transfer is [euro]15,000 or less, if the transfer relates to a transaction mentioned in paragraph (4); or
- (b) where the value of the transfer is over [euro]15,000, if—
 - (i) the transfer relates to a transaction mentioned in paragraph (4); and
 - (ii) P or the institution has obtained prior authorisation from the Treasury.

(4) The transactions are—

- (a) transactions regarding foodstuffs, healthcare or medical equipment;
- (b) transactions for agricultural or humanitarian purposes;
- (c) transactions regarding personal remittances;
- (d) transactions that have been licensed under regulation 23;

- (e) transactions that are permitted under an exemption contained in the Council Regulation;
 - (f) transactions regarding a trade contract that is not prohibited by the Council Regulation;
 - (g) transactions regarding the official purposes of a diplomatic or consular mission of the Democratic People's Republic of Korea;
 - (h) transactions regarding the official purposes of a diplomatic or consular mission of a state other than the Democratic People's Republic of Korea;
 - (i) transactions regarding the official purposes of an international organisation enjoying immunities in accordance with international law;
 - (j) transactions required exclusively for the implementation of projects funded by the European Union or its Member States for development purposes directly addressing the needs of the civilian population of the Democratic People's Republic of Korea or the promotion of denuclearisation;
 - (k) transactions for payments which satisfy claims against—
 - (i) the Democratic People's Republic of Korea;
 - (ii) a national of the Democratic People's Republic of Korea;
 - (iii) a legal person, entity or body incorporated or constituted under the law of the Democratic People's Republic of Korea; and
 - (l) transactions of a similar nature to those referred to in sub-paragraph (k) that do not contribute to activities prohibited by this Regulation.
- (5) The requirement for prior authorisation in paragraph (3) does not apply to any transaction which falls within paragraph (5)(h) or (i).
- (6) In this regulation—
- (a) a reference to an amount in euros includes a reference to the equivalent amount in another currency; and
 - (b) a reference to a transfer of funds of a particular amount includes a transfer executed in several operations which appear to be linked, as well as a transfer executed in a single operation.

Authorisations

- 20.**—(1) An authorisation granted by the Treasury under regulation 19(3) may be—
- (a) general or granted to a category of persons or to a particular person;
 - (b) subject to conditions;
 - (c) of indefinite duration or subject to an expiry date.
- (2) The Treasury may vary or revoke an authorisation at any time.
- (3) On the grant, variation or revocation of an authorisation, the Treasury must—
- (a) in the case of an authorisation granted to a particular person, give written notice of the grant, variation or revocation to that person,
 - (b) in the case of a general authorisation or an authorisation granted to a category of persons, take such steps as the Treasury consider appropriate to publicise the grant, variation or revocation of the authorisation.
- (4) A person commits an offence who, for the purpose of obtaining an authorisation, knowingly or recklessly—
- (a) provides information that is false in a material respect, or
 - (b) provides or produces a document that is not what it purports to be.

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(5) A person who purports to act under an authorisation granted by the Treasury but who fails to comply with any conditions included in the authorisation commits an offence.

Bank accounts for diplomats and diplomatic missions of the Democratic People's Republic of Korea

21.—(1) A credit or financial institution falling within the scope of Article 16 of the Council Regulation must not open a new bank account for—

- (a) a diplomatic mission or consular post of the Democratic People's Republic of Korea, or
- (b) a national of the Democratic People's Republic of Korea who is a member of such a diplomatic mission or consular post.

(2) A credit or financial institution falling within the scope of Article 16 of the Council Regulation must close any bank account by 11th April 2017 which is held or controlled by—

- (a) a diplomatic mission or consular post of the Democratic People's Republic of Korea, or
- (b) a national of the Democratic People's Republic of Korea who is a member of such a diplomatic mission or consular post.

(3) Paragraphs (1) and (2) are subject to regulation 23.

Real property

22.—(1) A person must not—

- (a) lease, or otherwise make available, real property, directly or indirectly, to persons, entities or bodies of the Government of the Democratic People's Republic of Korea;
- (b) lease real property, directly or indirectly, from persons, entities or bodies of the Government of the Democratic People's Republic of Korea;
- (c) engage in any activity linked to the use of real property that persons, entities or bodies of the Government of the Democratic People's Republic of Korea own, lease or are otherwise entitled to use.

(2) The prohibition in paragraph (1)(a) does not apply where the real property is used for diplomatic or consular activities.

(3) The prohibition in paragraph 1(c) does not apply to the provision of goods and services which—

- (a) are essential for the functioning of diplomatic missions or consular posts; and
- (b) cannot be used to generate income or profit directly or indirectly for the Government of the Democratic People's Republic of Korea.

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